

KEWEENAW BAY INDIAN COMMUNITY

TRIBAL COUNCIL

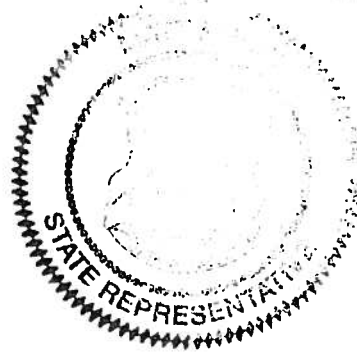
WARREN CHRISTIAN SWARTZ, Jr. President
ELIZABETH H. STINEBAUGH, Vice President
NORAN J. LAFORCE, Secretary
JERRY L. CURTIS, Assistant Secretary
TONI L. ANDERSON, Treasurer

Keweenaw Bay Tribal Center
16420 Beartown Road
Baraga, Michigan 49808
Phone (906) 323-6073
Fax (906) 323-7940

CHIEF OF BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20546
TELEPHONE (202) 725-6000
FEDERAL RESERVE BANK
WASHINGTON, D.C. 20563
TELEPHONE (202) 478-6000

May 24, 2012

Judson S. Gilbert II, Chair
Tax Policy Committee
Michigan House of Representatives
124 North Capitol Avenue
P.O. Box 30014
Lansing, MI 48909-7514



Re: House Bill 5609

Dear Chairman Gilbert,

The Tribal Council of the Keweenaw Bay Indian Community has instructed me to notify your committee that we do not oppose House Bill 5609. We are aware that Baraga County provides important services to its residents, many of them members of our tribe. We are also aware of the revenue problems faced by Baraga County. These problems are caused by the fact that over 75% of Baraga County's land base is tax-exempt because it is registered under the Michigan Commercial Forest Act or is owned by state, federal or tribal entities.

The Tribal Council believes that HB 5609 addresses a small part of that problem by making non-Indians personally responsible for delinquent property taxes on land they transfer to tribal members in order to avoid payment of those delinquencies. We support Baraga County's efforts to collect these legitimately owed taxes.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Warren Swartz".

Warren Christian Swartz
Tribal Council President
Keweenaw Bay Indian Community

LAKE SUPERIOR BAND OF CHIPPEWA INDIANS

"Home of the Midnight Two-Step Champion Hop"

BARAGA COUNTY CLERK
Register of Deeds

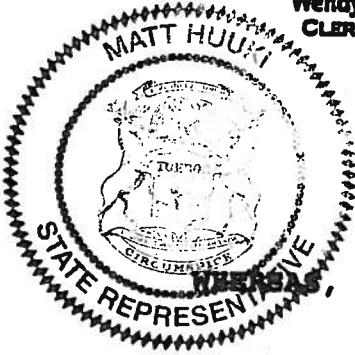


16 North Third Street • L'Anse, MI 49946-1085
906.524.6183 • Fax: 906.524.6432

Wendy J. Goodreau
CLERK/REGISTER

Kathryn Edwards
DEPUTY

Kim Fedie
DEPUTY



COUNTY OF BARAGA
STATE OF MICHIGAN
RESOLUTION

Baraga County has 582,904 acres of land located within its borders, more than three-quarters of which is exempt from local tax assessments and millages. 15.87% is owned by the State of Michigan, 7.95% is owned by the United States, 4.29% is owned by local governments, schools, churches or other tax exempt entities, 3.46% is owned by the Keweenaw Bay Indian Community or its members and 44.25% is owned by private individuals or corporations who have registered the properties under the Commercial Forest Act, bypassing the local taxation system and rendering those parcels virtually tax exempt. As a result only 24.29% of the Baraga County land base is subject to local tax assessments and millages; and

WHEREAS, In 2006 the Keweenaw Bay Indian Community won a victory in the federal courts, which ruled that property owned by the tribe or its members within the boundaries of the Reservation created by the 1854 Treaty was tax exempt. The Baraga County Board of Commissioners respects the decisions of the federal courts and does not begrudge tribal members those tax exemptions. Unfortunately, non-Indians have sought to exploit that exemption by allowing their property to fall behind on tax payments, which would ordinarily trigger a property foreclosure proceeding to collect the delinquent taxes. This procedure is not available to Baraga County because of the federal court decisions and thus revenues from legitimate taxes on non-tribally owned land is lost when the property is transferred to a tribal member; and

WHEREAS, 110th District Representative Matt Huuki has introduced House Bill 5609. HB 5609 makes delinquent taxes arising under these conditions a personal liability of the non-tribal landowner and provides a mechanism to collect such taxes when property is transferred to a tribal member who is legitimately entitled to a tax exemption; and

WHEREAS, The Baraga County Board of Commissioners strongly supports quick passage of HB 5609 since one large Baraga County parcel may become tax exempt under these conditions as early as July 2012, thereby costing Baraga

BOARD OF COMMISSIONERS

Gale Ellola

Michael Koskinen

Patrick Reilley

William Menge

William C. Rolof

RESOLUTION; Baraga County; May 14, 2012; p 2.

County and local units of government about \$130,000.00 in lost revenue from the delinquent taxes due on that parcel. The Board is also aware that other property owners have allowed their taxes to become delinquent with the idea of erasing those delinquencies as described above. Quick action on HB 5609 will preserve these delinquent taxes for Baraga County as well as discourage such actions in the future; and

WHEREAS, No other county has this issue since the only lands in the State of Michigan exempted by the 1854 Treaty are found on the Keweenaw Bay Indian Community Reservation located in Baraga County.

NOW THEREFORE, BE IT RESOLVED

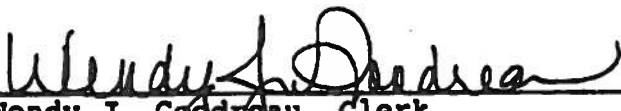
That the Baraga County Board of Commissioners strongly supports passage of House Bill 5609 and urges all Michigan Legislators and the Governor to enact the bill into law; and

BE IT FURTHER RESOLVED

That quick passage of HB 5609 is vitally important for Baraga County in order to avoid the pending loss of delinquent taxes and to ensure that other similar losses will be avoided in the future. Accordingly, the Baraga County Board of Commissioners urges that HB 5609 be enacted as soon as possible.

CERTIFICATION

The foregoing RESOLUTION was duly adopted by the Baraga County Board of Commissioners at a regular meeting held on May 14, 2012 by a vote of 5 in favor, 0 opposed, and 0 abstaining.


Wendy J. Goddreau, Clerk
Baraga County, Michigan



**THE TRIBAL PROPERTY TAX ISSUE WITHIN THE L'ANSE FEDERAL INDIAN
RESERVATION LOCATED IN BARAGA COUNTY.**

1970'S: Nationally, Indian tribes win federal court cases regarding state taxation on reservations. KBIC members push for tax exemption for their on-reservation property.

1980: Michigan Attorney General Opinion declares that KBIC has a "checkerboard" reservation. KBIC rejects AG Opinion. Local governments follow AG Opinion.

1980's: Increasing tension between KBIC members, Baraga County and other local governments regarding reservation boundary and property tax issue.

1981: Michigan Tax Tribunal (MTT) rules on-reservation property is tax exempt, adopts "checkerboard" theory of reservation boundary. See, Ellsworth Darcy, et al. v. Baraga Township et al., MTT Docket Nos. 29717 et al. (October 30, 1981). Local tension continues.

1991: Federal court rejects "checkerboard" theory, KBIC reservation includes all land within exterior boundaries. See, Keweenaw Bay Indian Community v. Michigan, 784 F. Supp. 418 (W.D. Mich. 1991).

1992: KBIC files property tax cases. Baraga Circuit Court stops sale of land but rules MTT has to decide these cases. See, In Re: Annual Sale of Lands for Delinquent Taxes of 1989, Baraga County Cir. Court No. 92-2791-CZ.

1994: Baraga County, Baraga Township, L'Anse Township and KBIC obtain MTT consent judgment declaring all on-reservation tribal property tax exempt. KBIC reimburses Baraga County for full amount that would have been owed if tribal land was taxable. Rose Edwards et al., v. Baraga Township, et al., MTT Docket Nos. 173393 et al. (May 3, 1994). Reimbursement comes from 2% disbursements required by Sault Ste. Marie Tribe et al. v. Engler, No. 1:90-CV-611 (W.D. Mich., August 20, 1993).

1998: State Tax Commission (STC) directs MTT to void all judgments state-wide between tribes, counties and townships. MTT complies except for Baraga County/KBIC judgment.

1999: STC orders Baraga County governments to put tribal properties on tax rolls in violation of MTT judgment. Baraga Township refuses. STC seizes tax rolls, puts tribal properties on and harshly penalizes Baraga Township. L'Anse Township puts tribal properties on tax rolls to avoid STC seizures and penalties.

Baraga County/KBIC Tax Issue; page 2.

2000: Baraga County, Baraga Township and L'Anse Township respect KBIC sovereignty and fight for KBIC tax exemption through meetings with STC, Governor and Attorney General. We are ignored.

2000 - 2002: Baraga County, Baraga/L'Anse Townships and KBIC join together and sue STC. Baraga Circuit Court and Michigan Court of Appeals uphold MTT judgment, Michigan Supreme Court reverses and holds STC could lawfully force local governments to violate MTT judgments. See, Baraga County v. Michigan State Tax Commission, 466 Mich. 264 (2002).

2003-2006: KBIC sues State in federal court and wins. Baraga County not surprised. See, KBIC v. Naftaly, 370 F. Supp. 620 (W.D. Mich. 2005); affirmed, KBIC v. Naftaly, 452 F.3d 514 (6th Cir. 2006); cert. denied, Naftaly v. KBIC, 549 U.S. 1053 (2006).

2006 - 2011: Now that Baraga County and KBIC's position is proven correct, the STC vanishes. KBIC honors MTT judgment and reimburses Baraga County to date of federal court decision. KBIC generously makes symbolic payments from 2% out of respect for Baraga County's efforts to support tribal sovereignty and property tax exemption.

2012: Non-Indians in Baraga County are attempt to exploit a tax exemption belonging to KBIC. These non-Indians don't pay taxes for three years then make a paper transfer of the land to a tribal member. The only way under current law to collect delinquent property taxes is to foreclose on the land after three years of non-payment. Because the property is tribal (at least on paper) this cannot happen and Baraga County loses revenue that was lawfully owed by a non-Indian. This problem is dramatic for Baraga County because of a severely limited tax base. See BARAGA COUNTY TAX PROBLEM handout.

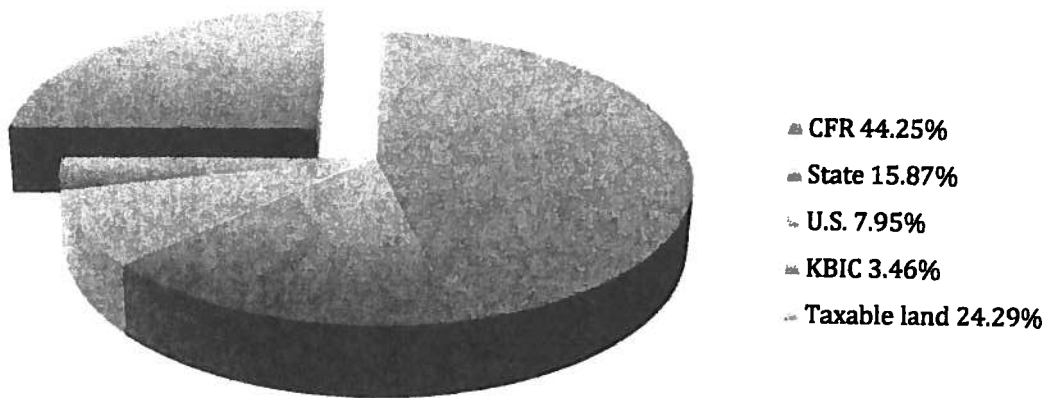
House Bill 5609: HB 5609 attempts to fix this problem by making such delinquent taxes a personal liability of the non-Indian. It does NOT invalidate any land transfer to a tribal member and it does NOT impose any liability on any tribal member. It simply allow baraga county to collect the tax owed by one of its non-Indian citizens. Passage of HB 5609 is urgent because a large parcel of land is likely to come off the tax rolls in July, potentially costing Baraga over \$200,000.00. In addition, other are following suit and the potential exists for even more legitimate taxes to be evaded.

**BARAGA COUNTY RESPECTFULLY REQUESTS THAT THE KBIC TRIBAL COUNCIL
HELP US PROTECT OUR REVENUES BY AUTHORIZING YOUR PRESIDENT TO
SIGN A LETTER OF SUPPORT FOR HB 5609.**

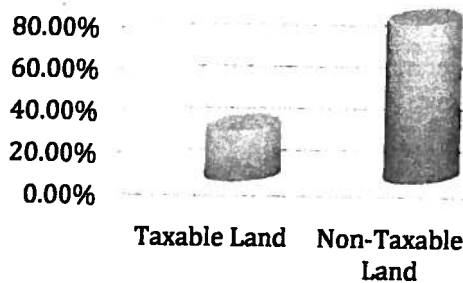
THE BARAGA COUNTY PROPERTY TAX PROBLEM

- In Michigan, county governments depend on local property tax millages and assessments as their primary source of revenue.
- In Baraga County the property tax base is severely limited due to unique ownership patterns. See pie chart below.

Baraga County Tax Base



- These ownership patterns result in only 24.29% of Baraga County land being subject to local property tax assessments. See chart below.



- State ownership and state laws cause Baraga County fiscal hardships unlike any other county in the state. Now some of Baraga County's non-Indian citizens are trying to exploit KBIC's tax exemption, eroding our revenue stream even further and limiting our ability to provide important services for all residents, Indian and non-Indian alike.

